

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

RONALD SAXON,

Civil No. 05-1413 (DSD/JSM)

Petitioner,

v.

REPORT AND RECOMMENDATION

STEARNS COUNTY
STATE OF MINNESOTA,

Respondent.

This matter is before the undersigned United States Magistrate Judge on Petitioner's application for habeas corpus relief under 28 U.S.C. § 2254. The matter has been referred to this Court for report and recommendation pursuant to 28 U.S.C. § 636 and Local Rule 72.1. For the reasons discussed below, it is recommended that this action be DISMISSED WITHOUT PREJUDICE.

The Court reviewed Petitioner's initial submissions shortly after this action was commenced, and found them to be inadequate in several respects. Most notably, Petitioner did not submit his petition on the form prescribed for use in this District, he did not clearly identify each of his individual claims for relief, he did not show that he had exhausted his state court remedies, and he failed to pay the \$5 filing fee for this action. Therefore, by order dated July 20, 2005, (Docket No. 2), Petitioner's initial habeas corpus petition was stricken, and he was directed to (a) file an amended habeas corpus petition on the proper form, and (b) either pay the \$5 filing fee, or else apply for leave to proceed in forma pauperis, ("IFP"). That prior order clearly informed Petitioner that if he did not satisfy both of those requirements within thirty (30) days, the Court would recommend that this action be summarily dismissed pursuant to Fed. R. Civ. P. 41(b).

The deadline for submitting an amended petition, together with the filing fee or IFP application, has now passed. To date, however, Petitioner has not filed an amended petition, nor has he paid the filing fee or submitted an IFP application. Indeed, the Court has received no communication of any kind from Petitioner since this action was filed more than three months ago. Therefore, it is now recommended, in accordance with the Court's prior order, that Petitioner be deemed to have abandoned this action, and that the action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be summarily **DISMISSED WITHOUT PREJUDICE**.

Dated: October 25, 2005

s/ Janie S. Mayeron
JANIE S. MAYERON
United States Magistrate Judge

Under D.Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by November 14, 2005, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Circuit Court of Appeals.